

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 97-2635

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United States of America,	*	
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Plaintiff-Appellee,	*	Appeal from the United States
	*	District Court for the
v.	*	District of Nebraska
	*	
Mark A. Winheim,	*	
	*	
Defendant-Appellant.	*	
	*	

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Submitted: April 15, 1998  
Filed: May 8, 1998

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Before BOWMAN, Chief Judge,<sup>1</sup> McMILLIAN, and MURPHY, Circuit Judges.

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MURPHY, Circuit Judge.

Mark Winheim pled guilty to possession with intent to distribute and conspiracy to distribute cocaine, 18 U.S.C. §§ 841(a)(1) and 846, and use of a firearm in a drug trafficking crime, 18 U.S.C. § 924(c)(1). The district court<sup>2</sup> denied his petition under

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<sup>1</sup>The Honorable Pasco M. Bowman became Chief Judge of the United States Court of Appeals for the Eighth Circuit on April 18, 1998.

<sup>2</sup>The Honorable William G. Cambridge, Chief Judge, United States District Court for the District of Nebraska.

28 U.S.C. § 2255 to vacate his guilty plea and sentence for the firearm offense, and he appeals. We affirm.

After Winheim sold cocaine to a confidential police informant, law enforcement officers obtained a search warrant for his home and discovered over three kilograms of cocaine, more than \$50,000 in cash, a shotgun, and several loaded handguns. Winheim entered guilty pleas under a plea agreement to possession with intent to distribute cocaine, 18 U.S.C. § 841(a)(1), conspiracy to distribute cocaine, 18 U.S.C. § 846, and use of a firearm in a drug trafficking offense, 18 U.S.C. § 924(c)(1). The government agreed to dismiss a separate count of possession with intent to distribute over 500 grams of cocaine, to stipulate that the total relevant quantity of cocaine was under five kilograms, and to recommend a sentence at the low end of the guideline range. After thoroughly questioning Winheim about his understanding of his rights, the meaning and impact of his plea, and the factual basis for his guilt, the district court accepted his guilty plea. During the hearing Winheim stated that he had the guns "for the protection of myself, my drugs, and my money." The district court sentenced him to consecutive terms of sixty-three months for the conspiracy and possession with intent to distribute charges and sixty months for the firearm charge.

Winheim did not appeal his conviction or sentence, but argues now that because of the Supreme Court decision in Bailey v. United States, 116 S.Ct. 501 (1995), his plea to "use" of a firearm had no factual basis and was not knowingly made. The district court denied his § 2255 petition on the basis of waiver.

Under the law of this circuit Winheim's petition is foreclosed because he failed to raise his § 924(c)(1) issues on direct appeal, Bousley v. Brooks, 97 F.3d 284, 287 (8th Cir. 1996), and his entry of an unconditional guilty plea waived all challenges not related to jurisdiction. Id. The judgment is affirmed.

A true copy.

Attest:

CLERK, U.S COURT OF APPEALS, EIGHTH CIRCUIT.